



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10**

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OFFICE OF
ECOSYSTEMS, TRIBAL AND
PUBLIC AFFAIRS

December 15, 2010

Stephanie Van Dyke
Development Director
Seattle Housing Authority
120 Sixth Avenue North
P.O. Box 19028
Seattle, Washington 98109-1028

Dannette R. Smith
Acting Director
City of Seattle Human Services Department
700 Fifth Avenue, Suite 5800
P.O. Box 34215
Seattle, Washington 98124-4215

Re: U.S. Environmental Protection Agency (EPA) Comments on the Yesler Terrace
Redevelopment Project (Project) Draft Environmental Impact Statement (DEIS).
(EPA Project Number: 10-029-HUD)

Dear Ms. Van Dyke and Ms. Smith:

The EPA has reviewed the Yesler Terrace Redevelopment Project DEIS and we are submitting comments in accordance with our responsibilities under the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act. Under our policies and procedures, we evaluate the environmental impact of the proposed action and the adequacy of the impact statement. We have assigned an Environmental Concerns – Adequate (EC-1) rating to the DEIS. A copy of the EPA rating system is enclosed.

We commend the lead agencies' efforts to lay the foundation for the redevelopment of Yesler Terrace into a healthy, livable, affordable, viable and green community. Your interest in following through on the Project's core values - social equity, economic opportunity, environmental stewardship, one-for-one replacement housing – is apparent in the consistent links between those values; the Guiding Principles and Planning Concepts; Objectives of the Proposal and the purpose and need statement. Indeed, the objective/purpose, "Create a vibrant, diverse and environmentally sustainable community that integrates uses, activities and incomes and enhances the livability of the Seattle community" (DEIS, p.2-7) is one among many which are consistent with the HUD-DOT-EPA Interagency Partnership for Sustainable Communities' (Partnership) six livability principles.¹

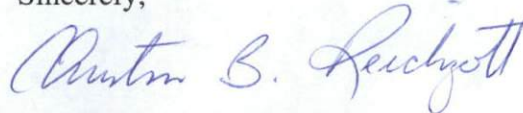
¹ <http://epa.gov/dced/partnership/index.html>

Our Environmental Concerns rating is based on our concern that mitigation measures are not linked to a monitoring plan or program. We believe the targets and decision thresholds of a monitoring plan or program is a key part of ensuring that the predicted environmental impacts are achieved and the objectives of the proposal are met. This is especially true for a Project involving such a complex array of stakeholders and real estate and other transactions over a long period of time.

Our enclosed detailed comments also describe a series of recommendations for additional clarifying language regarding impacts and possible operational mitigation measures for toxic air pollutants (both for sensitive receptors and for low income and minority populations). We also recommend additional clarifying language regarding the DEIS alternatives' relative consistency with the City of Seattle's stormwater Peak Control Standards.

We would like to thank you for this opportunity to comment and also for the time your Agencies' staff has spent communicating with us and the public on the Project. We would like to note especially, the efforts of the Seattle Housing Authority's Ryan Moore and the City of Seattle Department of Human Service's Kristen Larson. If you have any questions or concerns please contact Erik Peterson of my staff at (206) 553-6382 or by electronic mail at peterston.erik@epa.gov. You may contact me at (206) 553-1601.

Sincerely,



Christine B. Reichgott, Manager
Environmental Review and Sediment Management Unit

Enclosures:

EPA Detailed Comments on the Yesler Terrace Redevelopment Project Draft Environmental Impact Statement

EPA Rating System for Draft Environmental Impact Statements

EPA DETAILED COMMENTS ON THE YESLER TERRACE REDEVELOPMENT PROJECT DRAFT ENVIRONMENTAL IMPACT STATEMENT

Mitigation and Monitoring

We believe many of the Project's objectives are well served by the DEIS's suite of Required/ Proposed Mitigation Measures. To fully achieve the Project's objectives and fully protect the environment, other possible mitigation measures, such as those identified for: Air Quality; Water Resources; Plants and Animals; Climate Change, Greenhouse Gas Emissions and Energy; Noise; Land Use; Historic Resources; and Solid Waste, should be given full consideration and – to the maximum extent feasible – be incorporated into the FEIS as Required/ Proposed Mitigation Measures.

We are confident that the lead agencies are working diligently to include as many sustainability features/ mitigation measures as is possible and appropriate given the circumstances of the Project. With this in mind, we are less concerned with the final combination of mitigation measures, than we are with the likelihood of full implementation. We are primarily focused on the DEIS's lack of linkages between mitigation measures and monitoring. Without clear links from mitigation to monitoring we are concerned that predicted environmental benefits may be more difficult to achieve.

We note that, for agency decisions based on an EIS, the Council on Environmental Quality (CEQ) regulations require that, "a monitoring and enforcement program shall be adopted...where applicable for mitigation." 40 C.F.R. §1505.2(c). In addition, the regulations state that agencies may "provide for monitoring to assure that their decisions are carried out and should do so in important cases." 40 C.F.R. §1505.3. Monitoring plans and programs should be described or incorporated by reference in the agency decision documents.

Furthermore, we continue to believe – as stated in our May 19, 2010 scoping letter - that your efforts to benchmark existing conditions develop tools to measure progress towards achieving community visions, and increase the accountability of engaging in sustainable redevelopment may help to (i) move the national dialogue on livability measures forward, and, (ii) effectively measure the performance of your efforts.

Recommendation:

- We recommend that the FEIS describe or incorporate by reference a monitoring plan or program to ensure that mitigation measures are implemented and effective. We are especially interested in monitoring requirements associated with sustainability features (also listed as possible mitigation measures for Climate Change, Greenhouse Gas Emissions and Energy). Consider also, establishing specific implementation targets for mitigation measures which depend on phrases such as, "To the extent feasible,...". For additional general information consider the Council on Environmental Quality's "Draft Guidance for NEPA Mitigation and Monitoring".²

² http://ceq.hss.doe.gov/nepa/regs/Mitigation_and_Monitoring_Draft_NEPA_Guidance_FINAL_02182010.pdf

Air Quality

We agree with the DEIS's conclusion that, "...With implementation of the controls required for the various aspects of construction activities and consistent use of best management practices to minimize on-site emissions, construction of the proposed project would not be expected to significantly affect air quality." (p. 3.2-10).

Recommendation:

- To assist in your decision process regarding which construction "Other Possible Mitigation Measures" for air impacts should be included in the FEIS and Record of Decision as "Required/Proposed Mitigation Measures" we recommend you consider the potential environmental benefits of the measures proposed in the Northeast Diesel Collaborative April 2008 Model Contract Specification.³ We recommend this resource, as well as other examples of construction air quality mitigation measures contract language,⁴ as a supplement to the resources already listed in the DEIS.

With regard to operational air quality impacts, we commend the Seattle Housing Authority and City of Seattle Human Services Department for the DEIS's disclosure and discussion of potential human health impacts from Toxic Air Pollutants (TAPs). By comparing TAPs to Acceptable Source Impact Levels (ASILs) you have been generally responsive to our May 19, 2010 scoping letter's recommendation that the DEIS disclose potential human health impacts from Mobile Source Air Toxics (MSATs).

Our May 19 letter also included recommendations to assist in the development of mitigation for potential human health impacts from MSATs. To develop mitigation for MSATs/TAPs, we believe you would have to link TAPs to sensitive receptor locations as well as human health impact levels (e.g., ASILs). This overall concept is captured in our May 19 letter as,

"Assess or account for (qualitative or modeled depending on the severity of existing and projected conditions) factors that could influence the degree of adverse impact to human health. These factors include, for example, distances to human activity centers and sensitive receptor locations and the amount, duration, location and dispersion of emissions." (p. 4).

The DEIS concludes, essentially, that the degree of potential adverse impacts to human health from TAPs is not different: (a) within the Yesler Terrace Site, or, (b) between the Yesler Terrace Site and other areas of Seattle or other similar urban areas in the United States. Yet DEIS findings also indicate that long-term residency near busy roads carries with it a potentially elevated health risk. Therefore we believe that this project should explore feasible operational mitigation measures that fully protect human health and the environment.

Recommendations:

- We recommend that the FEIS discuss the feasibility of operational air toxic mitigation measures based on dispersion modeled TAPs concentrations and ASILs. Discuss, for

³ <http://www.epa.gov/otaq/diesel/construction/documents/cl-nedc-model.pdf>

⁴ <http://www.epa.gov/otaq/diesel/construction/contract-lang.htm>

example, the potential benefits – if any - of including air toxics operational mitigation measure for the siting or design of healthcare centers, nursing homes, and/or day care centers. Consider, as appropriate, how ASILs are used as screening guidelines or, if relevant, to develop mitigation measures for proposed stationary sources.

Water Resources

We strongly support proposed stormwater flow control facilities that would, "...reduce the peak stormwater discharge from the site relative to existing conditions and could help reduce CSOs, which can occur during heavy rainfall events." (DEIS, 3.3-15). We expect your goal of meeting the City of Seattle's flow control requirements (SMC Chapter 22.805.060, 22.805.070 and 22.805.080) would help reduce CSOs.

We are concerned that whereas the DEIS clearly states that the Project's flow control facilities will reduce peak stormwater discharge from the site relative to existing conditions, the DEIS does not clearly state that the Project's flow control facilities will meet all of Seattle's flow control requirements for all alternatives.

Recommendations:

- We recommend that the FEIS include additional clarifying language regarding the relative consistency among the alternatives (including existing conditions) with City of Seattle flow control requirements – especially the Peak Control Standards. Clarifying language should interpret the relevance of modeled results in Tables 3.3-1 through 3.3-5 to Peak Control Standards.
- We recommend that the FEIS discuss how the City of Seattle's Peak Control Standard ("...limits 2-year storm discharge rates to 0.15 cubic feet per second/acre (cfs/ac) and 25-year storm discharge rates to 0.4 cfs/ac...") would relate to the predevelopment hydrology⁵ of the Project site.
- We recommend that the FEIS include information on the permeability of on-site soils. Address how the DEIS estimates for GSI Required Release Rates (DEIS Tables 3.3-2 – 3.3-5) factored in the DEIS's conservative 0% infiltration rate for on-site soils.

Environmental Justice

We commend the Seattle Housing Authority and City of Seattle's Department of Human Services for the meaningful involvement efforts which have been an integral part of your project planning. Hand delivery of meeting notices (e.g., for the April 29, 2010 DEIS scoping meeting) and translation services at the meeting itself are two of many examples of how the lead agencies have made substantial efforts to ensure meaningful involvement.

We agree that the Project has the potential to result in disproportionate impacts from noise and TAPs to low income and minority populations. We also note that all of the action alternatives are likely better than no-action in this regard. We remain concerned, however, that the apparent mitigation for disproportionate impacts from noise and TAPs is limited to the Project's likely equitable distribution of housing types.

⁵ www.epa.gov/owow/nps/lid/section438

Recommendation:

- We recommend that the potential for disproportionate impacts from noise and TAPs to low income and minority populations be addressed through an operational mitigation measure. For more information on potential operational mitigation measures for TAPs see our Air Quality recommendation above.

**U.S. Environmental Protection Agency Rating System for
Draft Environmental Impact Statements
Definitions and Follow-Up Action***

Environmental Impact of the Action

LO – Lack of Objections

The U.S. Environmental Protection Agency (EPA) review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

EC – Environmental Concerns

EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce these impacts.

EO – Environmental Objections

EPA review has identified significant environmental impacts that should be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no-action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

EU – Environmentally Unsatisfactory

EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potential unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the Council on Environmental Quality (CEQ).

Adequacy of the Impact Statement

Category 1 – Adequate

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis of data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

Category 2 – Insufficient Information

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses or discussion should be included in the final EIS.

Category 3 – Inadequate

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the National Environmental Policy Act and or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

* From EPA Manual 1640 Policy and Procedures for the Review of Federal Actions Impacting the Environment. February, 1987